(iii) An operating subsidiary of a national bank chartered by the Office of the Comptroller of the Currency;

(iv) An insurance company licensed or authorized to do business in Tennessee by the Tennessee Department of Commerce and Insurance or designated by the Commissioner of that Department as an eligible surplus lines insurer; or

(v) Any other financial institution or company with trust powers and with offices located in Tennessee, provided that the institution's or company's activities are examined or regulated by a State or Federal agency.

(8) Trust funds and annuities, as described in this paragraph, must be established in a manner that guarantees that sufficient moneys will be available to pay for treatment of postmining pollutional discharges (including maintenance, renovation, and replacement of treatment and support facilities as needed), the reclamation of the sites upon which treatment facilities are located and areas used in support of those facilities.

(9) When a trust fund or annuity is in place and fully funded, the Office may approve release under § 800.40(c)(3) of this chapter of conventional bonds posted for a permit or permit increment, provided that, apart from the pollutional discharge and associated treatment facilities, the area fully meets all applicable reclamation requirements and the trust fund or annuity is sufficient for treatment of pollutional discharges and reclamation of all areas involved in such treatment. The portion of the permit required for postmining water treatment must remain bonded. However, the trust fund or annuity may serve as that bond.

[49 FR 38892, Oct. 1, 1984, as amended at 72 FR 9636, Mar. 2, 2007]

§ 942.815 Performance standards—Coal exploration.

Part 815 of this chapter, *Permanent Program Performance Standards—Coal Exploration,* shall apply to any person who conducts coal exploration.

§ 942.816 Performance standards—Surface mining activities.

(a) Except as modified by paragraphs (b) through (h) of this section, part 816 of this chapter, Permanent Program Performance Standards—Surface Mining Activities, shall apply to any person who conducts surface mining activities in the State of Tennessee.

(b) The permittee shall comply with the site-specific terms of the permit except that references to provisions of the Tennessee State program shall be read to require compliance with the relevant provisions of this part. Where the permit does not specify site-specific standards with which compliance is required, the permittee shall comply with the standards of this part.

(c) *Diversions.* In lieu of the requirements of § 816.43(a)(4) of this chapter, diversion design shall incorporate the following requirements:

(1) Channel lining shall be designed using standard engineering practices to pass safely the design velocities. Riprap shall comply with the requirement of § 816.71(f)(3) of this chapter, except for sand and gravel.

(2) Freeboard shall be no less than 0.3 feet. Protection shall be provided for transition of flows and for critical areas such as swales and curves. Where the area protected is a critical area as determined by the Office, the design freeboard may be increased.

(3) Energy dissipators shall be installed when necessary at discharge points, where diversions intersect with natural streams and exit velocity of the diversion ditch flow is greater than that of the receiving stream.

(4) Excess excavated material not utilized in diversion channel geometry or regrading of the channel shall be disposed of in accordance with §§ 816.71 through 816.74 of this chapter.

(d) *Hydrologic Balance: Siltation Structures.* In lieu of the requirements of § 816.46(c)(1)(iii)(A) of this chapter, sedimentation ponds shall provide a storage volume of no less than 0.2 acre feet per disturbed acre draining into the basin. The Office may approve lesser sediment storage volumes equal to the sediment calculated to enter the pond between planned cleanout intervals upon submission and approval of a plan for removing sedimentation from the pond which includes a description of the equipment to be used. The minimum sediment storage volume shall